

OBJECTING TO A NOTICE OF INTENT TO MOVE WITH CHILDREN

King County Family Law Facilitator Instruction 4.2

RCW 26.09.430-.480

King County Local Family Law Rule 15

NOTE: If the intended move is within the same school district as the child now resides, a person entitled to court-ordered residential time or visitation may not object to the intended relocation but they retain the right to move for modification under RCW 26.09.260.

If you do not file an objection within 30 days after receipt of the Notice of Intent to Relocate, the relocation of the child shall be permitted. If an objection is filed, the matter will be referred to King County Family Court Services for mediation.

The other party will be allowed to relocate, even after you file the objection, unless you file a motion to prevent the move and schedule the hearing within 15 days.

STEP 1: OBTAIN AND COMPLETE THE REQUIRED FORMS

These forms can be downloaded at: <http://www.kingcounty.gov/courts/scforms.aspx>

- Case Assignment Designation and Case Information Cover Sheet

These forms can be downloaded at: www.courts.wa.gov/forms

- Confidential Information FL All Family 001
- Objection about Moving with Children and FL Relocate 721
Petition about Changing a Parenting/Custody Order (Relocation)
- Summons: Notice of Objection about Moving with Children FL Relocate 720
and Petition about Changing a Parenting/Custody Order (Relocation)

If you are requesting a change in the Parenting Plan, you will also need:

- Parenting Plan FL All Family 140

Before signing the final parenting plan, the court will consult the judicial information system and databases, if available, to determine the existence of any information

and proceedings that are relevant to the placement of the children.

If you are requesting a change in the amount of child support, you will also need:

- **Child Support Worksheets WSCSS – Worksheets**

Read the “Child Support Schedule and Instructions” for information about how to complete the Worksheets. Online Child Support Calculation software is available at <https://fortress.wa.gov/dshs/dcs/SSGen/Home>

- **Financial Declaration of (name): _____** **FL All Family 131**
- **Child Support Order** **FL All Family 130**
- **Sealed Financial Source Documents with financial documents attached** **FL All Family 011**

Attach copies of the following financial documents to the Sealed Financial Source Documents coversheet: complete tax returns for the past 2 years with all schedules and W-2s; all pay stubs showing income for the past 6 months; and past 6 months of bank statements for all accounts listing you as account holder or in which you have an interest. If you have a partnership or corporation, see also King County Local Family Law Rule 10.

Choose one of the following (see Step 4):

- **Proof of Personal Service** **FL All Family 101**
- **Poof of Service by Mail** **FL All Family 107**

You will need this order to finalize the case:

- **Final Order and Findings on Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation)** **FL Relocate 735**

STEP 2: TALK TO AN ATTORNEY, IF POSSIBLE

These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for lower fees. Contact the King County Bar Association Lawyer Referral Line for information about limited services representation. If you cannot afford these fees, there are limited free legal services available to low-income people. Contact the Facilitators’ office for a *Legal Resource List* or the King County Bar Association Lawyer Referral Line for information about resources for low income people. Even if you do not hire a lawyer to represent

you throughout the proceeding, a lawyer can look over your paperwork, give you advice on how to present your evidence, and tell you whether this type of action is right for you.

STEP 3: MAKE COPIES AND FILE WITH THE CLERK

Make two copies of all the completed forms. One copy is for your records. The second copy is to serve on the other parent.

File the originals of all the completed forms with the Clerk's office (E-609 in Seattle and 2C in Kent). Exception: do not file the Proposed Child Support Order.

At the Clerk's Office, you will be asked to pay the filing fee. You can request a fee waiver; speak to a facilitator for more information.

Please note that the Proof of Personal Service or Proof of Service by Mail forms will be filed after service is completed.

STEP 4: HAVE THE OTHER PARTY SERVED

Have the other party served with a copy of the following:

- Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation)
- Summons: Notice of Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation)
- Order Setting Domestic Case Schedule

And any of the following documents you completed:

- Parenting Plan (Proposed)
- Child Support Worksheet
- Financial Declaration
- Sealed Financial Source Documents (with attached financial documents)
- Child Support Order (Proposed)

Arrange for someone to serve every party who has court-ordered time with the child(ren).

Service may be personal service: a person other than you, who is over the age of 18, delivers the papers to the other party, or leaves the papers at the other party's home with another responsible person who lives with the other party. The server completes the Proof of Personal Service.

Service may also be made by certified mail. A person other than you, who is over the

age of 18, mails the documents to the relocating party at the address listed on the Notice of Intent to Move with Children using any form of mail that requires a return receipt. Serve any other parties requiring notice at their mailing addresses.

Then, the server needs to complete the Proof of Service by Mail.

Make one copy of either the Proof of Personal Service or Proof of Service by Mail form and file the original with the Clerk's office.

If personal service is made outside the state of Washington, you must also file a , **FL All Family 102**), explaining why personal service cannot be made in-state. Failure to file this form invalidates service. File the original with the Clerk and keep a copy for your records.

STEP 5: WAIT FOR THE OTHER PARTY TO RESPOND

If the other parent does not respond by serving and filing the Response form within 20 days from the day they were served in the State of Washington (60 days if served outside the State of Washington), you can seek an order of default, which would allow you to finalize the case and modify the Parenting Plan or Residential Schedule. Speak to a facilitator about how to finalize the case by default.

If the other parent does respond, follow the Case Schedule given to you by the Clerk when you filed your documents.

STEP 6: FOLLOW YOUR CASE SCHEDULE AND PREPARE FOR TRIAL

Follow your Case Schedule and meet all deadlines. You will be referred to Family Court Services for mediation of parenting plan issues.

You must go to a class, called the Family Law Orientation, if you do not have an attorney representing you in the case. This class will explain how our court handles family law cases. And it will tell you where you can find information and help. The deadline to complete this class is listed on your Case Schedule.

Go to the Family Law Facilitator's Office for information or to register (W-382 in Seattle and 3D in Kent).

Exception: You do not have to go to this class if you have taken it before.

Finalizing by Agreement

If you and the other parent are able to come to a final written agreement, you may finalize the case in the Ex Parte Courtroom. You will need to schedule a hearing in the Ex Parte Courtroom on the final decree calendar at 1:30 p.m. by filing a Notice of Court Date (Commissioners) form, for either **Kent** or **Seattle**. Choose a hearing date that will be at least 14 days from the date you file the Notice of Court Date (Commissioners).

When you go to your hearing, bring the original final forms listed below, signed and filled out the way you would like the court to rule.

Bring the following to your hearing:

- Final Order and Findings on Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation) (completed original)
- Final Parenting Plan or Final Residential Schedule (completed original)

If a new order of child support is required you will also need:

- Child Support Order (completed original)
- Child Support Worksheets (completed original)

If agreement is not reached, proceed to Step 7.

STEP 7: ATTEND PRETRIAL CONFERENCE AND PREPARE FOR TRIAL

You will receive an Order Setting Pretrial Conference from your assigned Judge. This order will specify the date, time and place of the Pre-Trial Conference (approximately 1 month before your trial date.) Attendance is mandatory. Your case may be dismissed for failure to appear at this conference. After the Pretrial Conference you will be given an Order On Pretrial Conference, which you will use to prepare for trial. Please review our Preparing for Trial instructions.

STEP 8: GO TO YOUR TRIAL

Bring your trial notebook with you to court, which should include the following:

- Final Order and Findings on Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation) (completed original)
- Final Parenting Plan or Final Residential Schedule (completed original)

If a new order of child support is requested you will also include:

- Child Support Order (completed original)
- Child Support Worksheet (completed original)
- Financial Declaration and financial records

Present your case.

Get copies of all documents signed by the judge before you leave the courthouse.

<p>WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will <u>not</u> guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem but not represent you in court). If you need a lawyer, contact the Family Law Facilitators' Office for a Legal Resources List or call the King County Bar Association.</p>
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Attachment: Summary of the law about moving with children (Relocation Act, RCW 26.09.430 - .480)

If the custodian plans to move, s/he **must notify** every person who has court-ordered time with the children.

Move to a different school district

If the move is to a different school district, the custodian must complete the form *Notice of Intent to Move with Children* (FL Relocate 701) and deliver it at least **60 days** before the intended move.

Exceptions:

- If the custodian could not reasonably have known enough information to complete the form in time to give 60 days' notice, the custodian must give notice within **5 days** after learning the information.
- If the custodian is relocating to a domestic violence shelter or moving to avoid a clear, immediate and unreasonable risk to health or safety, notice may be delayed **21 days**.
- If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.
- A custodian who believes that giving notice would put her/himself or a child at unreasonable risk of harm, may ask the court for permission to leave things out of the notice or to be allowed to move without giving notice. Use form *Motion to Limit Notice of Intent to Move with Children (Ex Parte)* (FL Relocate 702).

The *Notice of Intent to Move with Children* can be delivered by having someone personally serve the other party or by any form of mail that requires a return receipt.

If the custodian wants to change the *Parenting Plan* because of the move, s/he must deliver a proposed *Parenting Plan* together with the *Notice*.

Move within the same school district

If the move is within the *same* school district, the custodian still has to let the other parent know. However, the notice does not have to be served personally or by mail with a return receipt. Notice to the other party can be made in any reasonable way. No specific form is required.

Warning! If you do not notify...

A custodian who does not give the required notice may be found in contempt of court. If that happens the court can impose sanctions. Sanctions can include requiring the custodian to bring the children back if the move has already happened, and ordering the custodian to pay the other side's costs and lawyer's fees.

Right to object

A person who has court-ordered time with the children can object to a move to a different school district and/or to the custodian's proposed *Parenting Plan*. If the move is within the same school district, the other party doesn't have the right to object to the move, but s/he may ask to change the *Parenting Plan* if there are adequate reasons under the modification law (RCW 26.09.260).

An objection is made by filing the *Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation)* (form FL Relocate 721). File your *Objection* with the court and serve a copy on the custodian and anyone else who has court-ordered time with the children. Service of the *Objection* must be by personal service or by mailing a copy to each person by any form of mail that requires a return receipt. The *Objection* must be filed and served no later than **30 days** after the *Notice of Intent to Move with Children* was received.

Right to move

During the 30 days after the *Notice* was served, the custodian may not move to a different school district with the children unless s/he has a court order allowing the move.

After the 30 days, if no *Objection* is filed, the custodian may move with the children without getting a court order allowing the move.

After the 30 days, if an *Objection* has been filed, the custodian may move with the children **pending** the final hearing on the *Objection* **unless**:

- The other party gets a court order saying the children cannot move, or
- The other party has scheduled a hearing to take place no more than 15 days after the date the
- *Objection* was served on the custodian. (However, the custodian may ask the court for an order allowing the move even though a hearing is pending if the custodian believes that s/he or a child is at unreasonable risk of harm.)

The court may make a different decision about the move at a final hearing on the *Objection*.

Parenting Plan after move

If the custodian served a proposed *Parenting Plan* with the *Notice*, **and** if no *Objection* is filed

within 30 days after the *Notice* was served (or if the parties agree):

- Both parties may follow that proposed plan without being held in contempt of the *Parenting Plan* that was in place before the move. However, the proposed plan cannot be enforced by contempt unless it has been approved by a court.
- Either party may ask the court to approve the proposed plan. Use form *Ex Parte Motion for Final Order Changing Parenting Plan – No Objection to Moving with Children* (FL Relocate 706).

Forms

You can find forms about moving with children at:

- The Washington State Courts' website: www.courts.wa.gov/forms,
- The Administrative Office of the Courts – call: (360) 705-5328,
- Washington LawHelp: www.washingtonlawhelp.org, or
- The Superior Court Clerk's office or county law library (for a fee).

(This is a summary of the law. The complete law is in RCW 26.09.430 through 26.09.480.)